

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAYMOND GEBAUER,

Defendant.

Case No. CR06-0122RSL

ORDER DENYING MOTION  
FOR RECONSIDERATION

This matter comes before the Court on defendant Raymond Gebauer's motion for reconsideration of the Court's April 20, 2007 order denying his motion for judicial findings regarding his indictments (Dkt. #66, the "Order"). The Court heard oral argument on the underlying motion on April 20, 2007. In his motion for reconsideration, defendant argues that the Court failed to make judicial findings regarding all indictments returned in this case.

Defendant has not shown that the Court erred in denying his motion. Defendant argues that the Court had a duty to compare all allegations in every superseding indictment to the original and subsequent indictments and make findings. Defendant cites United States v. Sears, 785 F.2d 777 (9th Cir. 1986). That case, however, evaluated whether the superseding indictment "broadens or substantially amends the charges in the original indictment" solely to

1 determine whether the superseding indictment was timely. Id. at 778 (internal citations and  
2 quotation omitted). Neither that case nor the others defendant cites imposed the broad duty  
3 defendant alleges to make such findings in the absence of any substantive claimed error.  
4 Defendant appears to seek the findings to support a future, as yet unraised allegation that the  
5 government abused the grand jury process. However, he notes that he did not move for relief on  
6 that issue in his underlying motion. Motion for Reconsideration at p. 2 (“Defendant merely  
7 moved the court to make findings as to whether the changes from one indictment to the next  
8 were substantial or not”). The Court will not issue such “findings” as an advisory opinion in  
9 advance of any claimed error or allegation of impropriety.  
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12 Regardless, as the Court previously found, the superseding indictments were sufficient,  
13 and they accurately informed defendant of the charges against him. Indeed, he does not allege  
14 otherwise. Accordingly, defendant’s motion for reconsideration (Dkt. #69) is DENIED.  
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16 DATED this 2nd day of May, 2007.

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19 Robert S. Lasnik  
20 United States District Judge  
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